

# SENATE . . . . . No. 1700

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## The Commonwealth of Massachusetts

PRESENTED BY:

**Anthony D. Galluccio**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to commercial motor vehicle safety.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Timothy J. Toomey, Jr.	26th Middlesex
Richard J. Ross	9th Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S02558 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT RELATIVE TO COMMERCIAL MOTOR VEHICLE SAFETY.

*Whereas*, The deferred operation for this act would tend to defeat its purpose, which is forthwith to protect motorists and residential neighborhoods in close proximity to our roadways, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 90F of the General Laws, as appearing in the 2006 Official Edition,  
2 is hereby amended by inserting, after Section 16, the following section:—

3           Section 17. (a) As used in this section, the following words shall, unless the context otherwise  
4 requires, have the following meanings:-

5           “Compensation,” the total cash remuneration received, including but not limited to salary, wages,  
6 bonuses, and cash incentives.

7           “Load,” a weight or quantity of any article, material, liquid, or substance identified in section 9  
8 of chapter 148 of the General Laws that is resting on or supported by a commercial motor  
9 vehicle.

10          “Retaliatory action,” any adverse employment action taken against an operator in the terms and  
11 conditions of employment, including but not limited to loss of compensation, discharge,  
12 suspension or demotion.

13          (b) Notwithstanding any general or special law to the contrary, no employer shall provide  
14 compensation to an operator on the basis of the individual load transported, the number of miles

15 traveled, or the number of deliveries made. No operator shall be penalized in any way, nor shall  
16 any retaliatory action be taken, including but not limited to non-payment of hours worked, as a  
17 result of an operator receiving compensation on a per hour basis.

18 (c) A violation of this section shall be punishable by a fine of \$5,000. A second and subsequent  
19 violation shall be punishable by a fine of \$10,000.

20 (d) The attorney general may make complaint or seek indictment against any person for a  
21 violation of this section. Any operator claiming to be aggrieved by a violation of this section  
22 may, at the expiration of 90 days after the filing of a complaint with the attorney general, or  
23 sooner if the attorney general assents in writing, and within 3 years after the violation, institute  
24 and prosecute in his own name and on his own behalf, or for himself and for others similarly  
25 situated, a civil action for injunctive relief, for any damages incurred, and for any loss of wages  
26 and other benefits. Any operator so aggrieved and who prevails in such an action shall be  
27 awarded triple damages, as liquidated damages, for any loss of wages and other benefits; and the  
28 employee shall also be awarded the costs of the litigation and reasonable attorneys' fees.